IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4895 OF 2005

Prakash Mahadeo Mhatre & Ors. ...Applicants
vs.
State of Maharashtra ...Respondent

Mr.R.R.Salvi for the Applicants
Mr.A.S.Gadkari,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 10,2005

P.C.:

1. Heard learned Advocate for the Applicants and learned A.P.P. for State.

2. The learned Counsel for the Applicants submitted that along with the applicants other 38 persons were charged for alleged offence punishable under sections 147,148,149,436,452 of the Indian Penal Code. He submitted that 11 co-accused have been enlarged on bail under the orders of the Sessions Court. He pointed out that there is complaint and cross complaint filed against each other. He pointed out that almost all the accused have been enlarged on bail in the cross complaint. He submitted that the incident has taken place mainly due to rivalry in two groups. He submitted that investigation is virtually over and therefore the Applicants are entitled to be enlarged on bail.

3. The learned A.P.P. has placed on record a chart showing nature of allegations against each of the Applicants. He has

also placed on record injury certificates. He stated that 11 accused in the same case have been enlarged on bail. On instructions he stated that there is no major difference between the role played by the Applicants and by 11 co-accused who are enlarged on bail. He submitted that though investigation is substantially completed, charge sheet is not yet filed and therefore, the Applicants are not entitled to be enlarged on bail.

4. I have considered the rival submissions. It is apparent from the F.I.R. that the incident complained of has taken place as a result of a fight between the two groups. It appears that a large number of persons gathered at the spot of the incident and there appears to be a free fight between the two groups. It appears that at this stage except for injury on the person of witnesses Namubai, the injuries on the persons of all the witnesses are in the nature of simple injuries. When there is such a fight between the two groups, there is a tendency to implead large number of persons. Except one injured person, all other persons suffered simple injuries and considering the fact that 11 co-accused have been enlarged on bail, a case is made out for enlarging the Applicants on bail.

5. Hence I pass the following order :

i) The Applicants shall be enlarged on bail in connection with C.R.No.74/2005 registered with Pen Police Station, District Raigad-Alibag subject to furnishing a personal bond of Rs.5000/- (Rupees five thousand) each with one surety each in the like amount.

ii) Bail is granted subject to the condition that the Applicants will report to the concerned police station once in a week till the conclusion of the trial.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicants shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE